

KELLOGG, HUBER, HANSEN, TODD, EVANS & FIGEL, P.L.L.C.

SUMNER SQUARE  
1615 M STREET, N.W.  
SUITE 400  
WASHINGTON, D.C. 20036-3209

(202) 326-7900

FACSIMILE:

(202) 326-7999

January 26, 2017

**Ex Parte Filing**

Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 Twelfth Street, S.W.  
12th Street Lobby, Room TW-A325  
Washington, D.C. 20554

Re: CC Docket No. 95-155; WT Docket No. 08-7

Dear Ms. Dortch:

On January 24, 2017, Gina Perini, Ann Berkowitz, and Joel Bernstein, all of Somos, Inc., and I met with Kris Monteith, Acting Chief of the Wireline Competition Bureau, Ann Stevens, Sanford Williams, Heather Hendrickson, Alex Espinoza, and Daniel Kahn, of the Wireline Competition Bureau, Pramesh Jobanputra, Michael Janson, Matthew Warner, Jennifer Salhus, and Karen Sprung of the Wireless Bureau, Daniel Stepanicich of the Enforcement Bureau, and Terry Cavanaugh of the Office of General Counsel to discuss Somos's Petition for a Declaratory Ruling Regarding Registration of Text-Enabled Toll-Free Numbers.

Somos's presentation and the ensuing discussion focused on two procedural issues. The first is whether the relief that Somos seeks can be granted through a declaratory ruling, rather than through a rulemaking, and the second is whether the Bureau can grant the relief on delegated authority. Somos explained why the answer to both questions is "yes." At the outset, there is no obstacle to the Commission acting pursuant to informal adjudication – that is, by issuing a declaratory ruling – because the declaration that Somos seeks would not alter any existing regulation adopted through notice-and-comment rulemaking.

It is likewise clear that the Bureau can act pursuant to delegated authority. The Commission's rules limit the Bureau Chief's authority to act when a request for declaratory ruling "present[s] novel questions of fact, law or policy *which cannot be resolved under outstanding precedents and guidelines.*" 47 C.F.R. § 0.291(a)(2) (emphasis added). The relief that Somos seeks constitutes a straightforward application

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of the Commission's existing numbering rules and policies. First, the requirement that a messaging services provider seek Resp Org authorization before text-enabling a Toll-Free number follows directly from the Commission's determination that Resp Orgs are the entities responsible for managing and administering Toll-Free numbers. 47 C.F.R. § 52.101(b). Resp Orgs cannot fulfill their responsibility for ensuring the integrity of Toll-Free number assignment unless they are informed of the subscriber's determination to text-enable a particular Toll-Free number. Moreover, only the Resp Org has the ability to ensure, by virtue of an existing direct or indirect relationship with the Toll-Free subscriber, that the subscriber with authority over a particular Toll-Free number has authorized text-enablement.

Second, the requirement that every text-enabled Toll-Free number be registered in the Somos Texting and Smart Services ("TSS") Registry follows from the Commission's determination that the SMS/800 database is the definitive registry for Toll-Free numbers, and from the existing designation of Somos as the Toll-Free neutral administrator. Ensuring that text-enabled numbers are registered in a way that is integrated and consistent with the SMS/800 database is necessary to fulfill a number of existing regulatory requirements, including, (1) ensuring that unassigned numbers are not text-enabled, which would render them unavailable for "first-come, first-served" assignment; (2) ensuring that if a Toll-Free number goes out of service, the text-messaging service does not continue as a "zombie" service; (3) ensuring that law enforcement can determine the status of a text-enabled Toll-Free number; (4) ensuring that registration information is maintained by an impartial administrator. Moreover, use of the TSS Registry ensures an efficient mechanism for obtaining Resp Org authorization, drawing on existing processes and information flows. The TSS Registry is an extension of the SMS/800 database, to be administered on a not-for-profit, cost-recovery basis.

This letter is being electronically filed for inclusion in the record of these proceedings. If you have any questions concerning this matter, please contact me at (202) 326-7921.

Sincerely,

Handwritten signature of Aaron M. Panner in black ink, with a stylized flourish at the end.

Aaron M. Panner

cc:	Kris Monteith	Pramesh Jobanputra
	Ann Stevens	Michael Janson
	Sanford Williams	Matthew Warner
	Heather Hendrickson	Jennifer Salhus
	Alex Espinoza	Karen Sprung
	Daniel Kahn	Daniel Stepanicich
	Terry Cavanaugh	